

REMARKS

The Examiner is thanked for the indication of allowable subject matter in claim 66. Claim 66 has been rewritten in independent form.

Applicants acknowledge the withdrawal of claims 81-90 by the Examiner as being directed to an independent or distinct invention. Claims 41-50, 60-79, and 81-90 were pending and under consideration. Applicants have amended claims 41, 47, 60, 66, 75, and 76, added claims 91 and 92, and cancelled claims 77-79. Accordingly, claims 41-50, 60-76, and 91-92 are now pending and under consideration.

Claim 63 stands objected to under 37 C.F.R. § 1.75(c) as failing to further limit the subject matter. The Office Action states that “[c]laim 63 includes no additional limitation not already found in claim 60” (Office Action at 2). Applicants respectfully disagree, noting that claim 63 recites that “one of the electrodes extends at least partially across the lumen opening at the lumen opening” (emphasis added). Claim 60, however, recites only that the active and return electrodes extend “at least partially across the lumen opening,” without reciting whether, for example, the electrodes extend across the lumen opening at the lumen opening (claim 63), proximal to the lumen opening (claim 64), or distal to the lumen opening (claim 65).

Claims 41-45, 47-50, 60-65, and 67-80 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cosmescu (6,355,034). The Office Action states in part:

With reference to the passages of column 9, line 5 – column 11, line 14, there is disclosed an aspiration aperture (see figures 4a-4d) across which the first and second electrodes extend (for example see the electrodes of figures 2d, 2e, or 2c). As disclosed in figures 3a, 3c, and 3d, the position of the electrodes may be displaced via the telescopic mechanism in order to more precisely position the electrodes for surgery.

(Office Action at 5).

Applicants disagree with the Examiner's characterization of Cosmescu's disclosure. In particular, Cosmescu does not disclose that the aspiration aperture of figures 4a-4d can be combined with the electrodes of figures 2c-2e.

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However, to expedite prosecution, Applicants have amended the pending independent claims under consideration (claims 41 and 60) to recite that electrical leads are insulated from fluid within a lumen.

Cosmescu does not describe or suggest electrical leads that are insulated from fluid within a lumen. Rather, in Cosmescu's device, the electrical leads must be at least partially uninsulated to provide for slideable electrical contact as telescopic body 44 is extracted or retracted within main body 42 (see col. 8, lines 5-18). In particular, at least part of contact prongs 80 and 82, and contacts 64 and 66 must be uninsulated to allow slideable electrical contact.